

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DAVID OWENS HOOPER,

Petitioner,

vs.

E.K. McDANIEL, *et al.*,

Respondents.

3:11-cv-00221-LRH-VPC

ORDER

This is a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 in which petitioner, a state prisoner, is proceeding *pro se*. On July 21, 2011, petitioner filed a first amended petition. (ECF No. 31.)

Petitioner has filed several motions requesting a hearing, copies of documents submitted to the court, reconsideration of the court's prior orders denying him counsel and an interlocutory appeal, and leave to file an amended petition with excess pages. (ECF Nos. 9, 22, 26, 27, 28, 30.) First, to the extent petitioner seeks an evidentiary hearing, the court denies his motions as premature at this time. Second, the court denies petitioner's request for copies of documents filed with the court. Although petitioner is proceeding *in forma pauperis*, he is not entitled to any and all copies that he desires of documents he has filed. *See Anderson v. Gillis*, 236 Fed. Appx. 738, 739 (3d Cir. 2007) (unpublished). However, petitioner may obtain a copies of documents by submitting the appropriate fee to the clerk's office. Third, to the extent petitioner moves for reconsideration of the court's prior orders denying him counsel and an interlocutory appeal, he fails to demonstrate a legal basis upon which the court may grant reconsideration. Finally, to the extent petitioner seeks leave to file a first amended petition with excess

1 pages, the court grants his request. The first amended petition filed July 21, 2011, will be considered
2 in its entirety as currently filed.

3 **IT IS THEREFORE ORDERED** that petitioner's motion for leave to file excess pages (ECF
4 No. 30) is **GRANTED** in part as described above. All other requests in ECF No. 30 are **DENIED**.

5 **IT IS FURTHER ORDERED** that all other pending motions (ECF Nos. 9, 22, 26, 27, 28) are
6 **DENIED**.

7 **IT IS FURTHER ORDERED** that the clerk **SHALL SEND** petitioner a letter describing the
8 cost of obtaining copies from the court.

9 **IT IS FURTHER ORDERED** that the clerk shall **ELECTRONICALLY SERVE** the first
10 amended petition (ECF No. 31) upon the respondents. A petition for federal habeas corpus should
11 include all claims for relief of which petitioner is aware. If petitioner fails to include such a claim in his
12 petition, he may be forever barred from seeking federal habeas relief upon that claim. *See* 28 U.S.C.
13 §2254(b) (successive petitions). If petitioner is aware of any claim not included in his petition, he should
14 notify the court of that as soon as possible, perhaps by means of a motion to amend his petition to add
15 the claim.

16 **IT IS FURTHER ORDERED** that respondents shall have **forty-five (45)** days from entry of
17 this order within which to answer, or otherwise respond to, the petition. In their answer or other
18 response, respondents shall address any claims presented by petitioner in his petition as well as any
19 claims presented by petitioner in any statement of additional claims. Respondents shall raise all
20 potential affirmative defenses in the initial responsive pleading, including lack of exhaustion and
21 procedural default. **Successive motions to dismiss will not be entertained**. If an answer is filed,
22 respondents shall comply with the requirements of Rule 5 of the Rules Governing Proceedings in the
23 United States District Courts under 28 U.S.C. §2254. If an answer is filed, petitioner shall have **forty-**
24 **five (45) days** from the date of service of the answer to file a reply.

25 **IT IS FURTHER ORDERED** that, henceforth, petitioner shall serve upon the Attorney General
26 of the State of Nevada a copy of every pleading, motion, or other document he submits for consideration
27 by the court. Petitioner shall include with the original paper submitted for filing a certificate stating the
28 date that a true and correct copy of the document was mailed to the Attorney General. The court may

1 disregard any paper that does not include a certificate of service. After respondents appear in this action,
2 petitioner shall make such service upon the particular Deputy Attorney General assigned to the case.

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4 DATED this 28th day of September, 2011.

A handwritten signature in blue ink, appearing to read "L. Hicks", is written over a faint circular stamp.

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8 LARRY R. HICKS
9 UNITED STATES DISTRICT JUDGE
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